

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

THE BANK OF NEW YORK MELLON	)	CIVIL NO. 17-00297 DKW-RLP
FKA THE BANK OF NEW YORK, AS	)	
TRUSTEE FOR THE CERTIFICATE	)	FINDINGS AND RECOMMENDATIONS TO
HOLDERS OF THE CWMBS INC., CHL	)	GRANT PLAINTIFF'S MOTION TO
MORTGAGE PASS-THROUGH TRUST	)	STRIKE "ANSWER TO COMPLAINT
2006-OA5, MORTGAGE PASS	)	AFFIDAVIT; AFFIDAVIT
THROUGH CERTIFICATES, SERIES	)	OF NEGATIVE AVERMENT" OF
2006-OA5, a Delaware	)	DEFENDANT LEN C. PERRY
corporation,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
LEN C. PERRY JR.; NATHAN JON	)	
LEWIS; 3925 KAMEHAMEHA RD	)	
PRINCEVILLE, HI 96722, LLC,	)	
	)	
Defendants.	)	
	)	

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FINDINGS AND RECOMMENDATIONS TO GRANT PLAINTIFF'S MOTION  
TO STRIKE "ANSWER TO COMPLAINT AFFIDAVIT; AFFIDAVIT  
OF NEGATIVE AVERMENT" OF DEFENDANT LEN C. PERRY<sup>1</sup>

Before the Court is Plaintiff's Motion to Strike  
"Answer to Complaint Affidavit; Affidavit of Negative Averment"  
of Defendant Len C. Perry, filed on October 31, 2017 ("Motion").  
ECF No. 36. Defendant Len C. Perry did not file an opposition or  
other response to the Motion. See ECF No. 42. The Court found  
this matter suitable for disposition without a hearing pursuant

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<sup>1</sup> Within fourteen days after a party is served with a copy  
of the Findings and Recommendation, that party may, pursuant to  
28 U.S.C. § 636(b)(1), file written objections in the United  
States District Court. A party must file any objections within  
the fourteen-day period allowed if that party wants to have  
appellate review of the Findings and Recommendation. If no  
objections are filed, no appellate review will be allowed.

to Rule 7.2(d) of the Local Rules of Practice for the United States District Court for the District of Hawaii. ECF No. 40.

Based on the lack of opposition, the Court FINDS AND RECOMMENDS that the district court GRANT Plaintiff's Motion and GRANT Defendant Len C. Perry leave to file an amended answer no later than fourteen days after the district court adopts this Findings and Recommendation. Defendant Len C. Perry's amended answer shall comply with all applicable Federal Rules of Civil Procedure, shall state what is admitted and what is denied for each sentence in the Complaint, shall include affirmative defenses, if there are any that apply, and shall include a prayer for relief.

IT IS SO FOUND AND RECOMMENDED.

DATED HONOLULU, HAWAII, NOVEMBER 29, 2017.



  
Richard L. Puglisi  
United States Magistrate Judge

**THE BANK OF NEW YORK MELLON V. PERRY, ET AL, CIVIL NO. 17-00297**  
**DKW-RLP; FINDINGS AND RECOMMENDATIONS TO GRANT PLAINTIFF'S MOTION TO**  
**STRIKE "ANSWER TO COMPLAINT AFFIDAVIT; AFFIDAVIT OF NEGATIVE AVERMENT"**  
**OF DEFENDANT LEN C. PERRY**